NOTES OF CASES.

CONTEMPT IN SEEKING INFORMATION AS TO JUROR.—In *Ex parte McRae*, 77 S. W. 211, it is held that a mere effort to secure the service of a person to find out how a juror stands in reference to a case on trial does not authorize punishment for contempt, where the person so employed makes no effort to tamper with the juror, and does not hold out any inducement to the jury to decide one way or the other, and does not talk with the juror about the case. The court says that it must be conceded that the conduct of the relator was reprehensible, but it cannot find any decision authorizing his punishment for contempt. Nevertheless it entertains hearty disapprobation of his conduct and of similar efforts to in any way interfere with the decent and orderly administration of the laws.

If an effort had been made to find out from the juror how he stood, it would seem that such conduct would have constituted contempt. Contempt is a disobedience to the court, or an opposing or despising the authority, justice or dignity thereof; and is of two kinds, direct and constructive. A direct contempt is an open insult in the presence of the court to the person of the presiding judge, or a resistance or defiance in his presence to its powers or authority. A constructive contempt is an act done, not in the presence of the court, but at a distance, which tends to belittle, to degrade, to obstruct, interrupt, prevent, or embarrass the administration of justice. 9 Cyc. 5, 6; 2 Bart. Law Pr. (2nd ed.) 774. All wilful attempts of whatever nature, seeking to influence improperly jurors in the discharge of their duties, whether by conversations or discussions, or attempts to bribe, obstruct or tend to hinder justice, and therefore constitute contempt. 9 Cyc. 16. Hence, a litigant's discussing his case before members of the jury who may try it constitutes contempt. *Baker* v. *State*, 82 Ga. 776; 9 S. E. 743, 14 Am. St. Rep. 192, 4 L. R. A. 128. The subtle power of influence is easily imparted, and merely an anxious inquiry of a man of power as to the stand of a juror in the case might be sufficient to show the inquirer's sympathy, and thus to turn the scale of justice. A reporter's attempting by evesdropping to obtain information as to the deliberations of the jury has been held to constitute contempt. *Orman* v. *State*, 24 Tex. App. 495, 6 S. W. 544. Also soliciting a juror to give a signal as to verdict so that person on the outside may bet thereon, although nothing is said by the person making the attempt as to how he desires the jury to decide. *State* v. *Doty*, 32 N. J. L. 403, 90 Am. Dec. 671.

Instances of contempt from the cases in Virginia. Insult off the bench in regard to an opinion delivered by the judge in court, *Dandridge's Case*, 2 Va. Cas. 408; commissioners' executing a decree after an appeal had been granted, *McLaughlin* v. *Janney*, 6 Gratt. 609; suit in false name, *Howard* v. *Rawson*, 2 Leigh 733; disobeying an injunction, *B. & O. R. R.* v. *City of Wheeling*, 13 Gratt. 40, 57; interference with a receiver without the permission of the court, *Thornton* v. *W. Sav. Bank*, 76 Va. 432; resisting the

execution of the court's order to open a road, *Bailey's Case*, 78 Va. 19; failure to obey peremptory mandamus, *Cromwell's Case*, 95 Va. 254, 28 S. E. 1023; preventing duly summoned witness from attending court, *Feeley's Case*, 2 Va. Cas. 1; attorney sending false telegram to judge in order to delay case; refusal to testify before grand jury, *Kendrick's Case*, 78 Va. 490. As to newspaper publications, see 4 Va. Law Reg. 520, 6 Va. Law Reg. 792.

Instances of behavior not amounting to contempt. Riot during recess of court, *Stuart's Case*, 2 Va. Cas. 320; hiding from sheriff to avoid service of summons to testify before the grand jury, *Deskins' Case*, 4 Leigh 685; failure of a member of a voluntary military company to answer jury summons, *Miller's Case*, 80 Va. 33; unauthorized acts of employees disclaimed by employers, *Postal Tel. Co.* v. *N. & W. R. R*, 88 Va. 929, 14 S. E. 691; attorney acting in good faith for what he believed to be the best interest of his client and from no disrespect for the court, *Well's Case*, 21 Gratt. 509; filing protest against the action of the court by a justice thereof, *Stokely's Case*, 1 Va. Cas. 330; failure of attorney to be present when his case was called and at time agreed, owing to his detention in another case, protracted longer than he had anticipated, *Wise's Case*, 97 Va. 779, 34 S. E. 453; refusal to obey vague and uncertain decree, *Birchett* v. *Bolling*, 5 Munf. 442.

C. B. G.

TRADE-MARK: RIGHT OF MAN TO USE HIS OWN NAME.—In the case of *Royal Baking Powder Company* v. *Royal*, 122 Fed. 337, it appears that the complainant company had for many years been making and selling a baking powder under the name of "Royal," by which name its product was called for by purchasers. The defendant, whose surname is Royal, commenced the manufacture and sale of a baking powder which he packed in cans similar in size and shape to complainants, and, having, a label similar in color and general appearance, bearing his name in large letters. He also advertised his baking powder as the "New Royal." Having been enjoined from such advertising and from using the labels, he changed the color of the label from red to blue, on which was printed the name "Maxim Baking Powder;" but still having his name in prominent letters on the front of the cans. There was evidence that this baking powder had, in some cases, been sold as that of complainant's and that retailers had given it to customers calling for Royal baking powder, without explaining that it was not the well-known product of the complainant company.

The court held that all the facts showed a purpose on the part of the defendant so to use his name as to sell his product as that of complainant, and that while he would not be enjoined from using his name, he would be restrained from placing it on the front label of his cans.

A person has the right honestly to use his own name in connection with his business, although he may thereby interfere with or injure the business of another, but a court of equity will restrain him from intentionally so using it as to deceive the public—or enable others to do so—into buying his goods as those of another and will require him, when entering a busi-